THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.9169 of 2006

–

DATED:28-04-2006

–

BETWEEN

Bhamadamary Kameswara Rao.

…PETITIONER

AND

The Municipal Corporation of Kakinada, rep. By its Commissioner, Kakinada, and another.

…RESPONDENTS

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.9169 of 2006

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of respondents in attempting to demolish the building bearing door No.13-1-32, opposite to Town

Hall, Main Road, Kakinada, East Godavari District, without following the procedure and without payment of any compensation, as illegal and arbitrary.

The case of the petitioner is that he is the absolute owner and possessor of the above said premises, situated at Main Road, Kakinada, East Godavari District. It is stated that at the instance of the first respondent, the second respondent and his staff visited the premises of the petitioner and took measurement of his house and threatened to demolish the same for the purpose of widening the road.

The main grievance of the petitioner is that the respondent Corporation has not issued any notice before deciding to demolish his premises and they are trying to demolish the same for the purpose of widening the road without acquiring the property as contemplated under the Municipal Corporation Act (for short 'the Act') or under the Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land acquisition Act, is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same by following due process of law. This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the respondents are directed not to demolish or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or under 147 of the Act by private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

The writ petition is accordingly disposed of. No costs.

_____

V. ESWARAIAH, J

Dated: 28-04-2006

sj